IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 795 of 2005

BHERU & ORS.
V/S
A.D.J.N0.2,BHILWARA & ORS.

Mr. SANDEEP SARUPARIA, for the appellant / petitioner

Mr. MANISH SHISHODIA, for the respondent

Date of Order : 30.7.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

This petition has been filed against the orders of the two learned courts below, accepting the plaintiff's application for temporary injunction, and directing the defendant to desist from creating any obstruction in the way of the plaintiff, claimed to be existing through West Pali of Araji 2271, and through the South Pali of Araji 2272.

The Appellate Court's order is dated 17.9.2004, while that of the trial court is dt. 16.8.2004, and the application under O. 39 Rule 1 & 2 also appears to have been filed in July 2004.

In this writ petition vide order dt. 10.2.2005, while issuing show cause notice for final disposal, the operation of the impugned order was ordered to remain

stayed, and both the parties were directed to maintain status quo. This status quo was ordered to continue for six weeks. However, it is informed by the learned counsel for the petitioner that the status quo is continuing till the date, and learned counsel for the respondent is also not in a position to controvert the submission.

In my view, in these circumstances, it would not be in the interest of justice, to interfere with the impugned orders, and upset the status quo, as might be existing during all this period of time, and more so when, it has been observed by the learned lower Appellate Court, that admittedly the plaintiff has not used the way in question for the last 10 years; and interest of justice would be met, if the learned trial court is directed to expeditiously decide the main suit itself.

Accordingly, the writ petition is disposed of making the order dt. 10.2.2005 absolute, and directing the parties to maintain status quo as it exists today, during pendency of the suit, and the learned trial court is also directed to decide the suit most expeditiously. Both the learned counsel for parties submit, that they will extend full cooperation in expeditious disposal of the suit.

(N P GUPTA),J.

/sushil/